



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 12, 22, 47, and 52

[FAR Case 2019-017; Docket No. FAR-2019-0017, Sequence No. 1]

RIN 9000-AO00

**Federal Acquisition Regulation: Training to Prevent Human
Trafficking For Certain Air Carriers**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, which requires that domestic carriers who contract with the Federal Government to provide air transportation must submit an annual report with certain information related to prevention of human trafficking.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]** to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2019-017 to the Federal eRulemaking portal at <http://www.regulations.gov> by searching for "FAR Case 2019-017". Select the link "Comment Now" that corresponds with "FAR Case 2019-017". Follow the instructions provided on the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2019-017" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

Instructions: Please submit comments only and cite "FAR Case 2019-017" in all correspondence related to this case. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at <https://www.regulations.gov/faq>). To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Malissa Jones, Procurement Analyst, at 571-882-4687, or by email at malissa.jones@gsa.gov. For information pertaining to status, publication schedules, or alternate instructions for submitting comments if

<https://www.regulations.gov> cannot be used, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAR Case 2019-017.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR to implement section 111 of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 (Pub. L. 115-425), enacted January 8, 2019. Section 111 amends 49 U.S.C. 40118 to require that domestic carriers who contract with the Federal Government to provide air transportation must submit an annual report to the Administrator of General Services, the Secretary of Transportation, the Secretary of Labor, the Administrator of the Transportation Security Administration, and the Commissioner of U.S. Customs and Border Protection. The FAR will require the following information in the report:

- The number of personnel trained in the detection and reporting of potential human trafficking (as described in 22 U.S.C. 7102 in the paragraphs titled "Severe forms of trafficking in persons" and "Sex trafficking"), including the training required under 49 U.S.C. 44734(a)(4);
- The number of notifications of potential human trafficking victims received from contractor personnel, subcontractors, or passengers; and

- Whether the contractor notified the Global Human Trafficking Hotline, another comparable hotline, or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if the contractor made a notification, the date the notification was made and the method of notification (e.g., text to Hotline, call to law enforcement).

Section 111 does not apply to contracts awarded by the Department of Defense.

II. Discussion and Analysis

The proposed rule reflects the new reporting requirements conveyed in section 111 and updates the statutory citations for 49 U.S.C. 40118, Government-financed air transportation, throughout the FAR, removing obsolete references to section 5 of the International Air Transportation Fair Competitive Practices Act of 1974.

A summary of the proposed changes follows.

A. FAR Parts 12, 22, and 47.

In 12.503(b)(4), 47.101, and 47.402, references to Government-financed air transportation are revised to clarify the statutory title of 49 U.S.C. 40118. References to the Fly America Act are maintained to avoid confusion throughout the contracting workforce.

In 22.1703, Policy, a cross-reference to 47.405(b) is added to point to the prescription for a new contract clause that

includes reporting requirements concerning training to prevent human trafficking for domestic carrier air transportation.

New section 47.400, Scope of Subpart, is added to introduce the statute implemented in the section, for consistency with the standard structure of the FAR.

The definition of "U.S.-flag air carrier" in FAR 47.401 is revised to reflect the terminology used in 49 U.S.C. 41102, and referenced in 49 U.S.C. 40118. Conforming changes are made to the definition of "U.S.-flag air carrier" in FAR clause 52.247-63, Preference for U.S.-Flag Air Carriers.

FAR 47.405 is amended to include a prescription for the new clause at FAR 52.247-XX, Reporting Requirement for U.S.-Flag Air Carriers Regarding Training to Prevent Human Trafficking. The new clause will be required for solicitations and contracts, including those below the simplified acquisition threshold (SAT) and those for commercial services, that are with a U.S.-flag carrier for the transportation by air of passengers. As a result, a conforming change in the reference to 47.405 is made at 12.503, Applicability of certain laws to Executive agency contracts for the acquisition of commercial products and commercial services.

B. FAR Part 52.

New FAR clause 52.247-XX, Reporting Requirement for U.S.-Flag Air Carriers Regarding Training to Prevent Human Trafficking, contains the reporting requirements described in section 111 and provides instructions to contractors on when and

how to submit the annual report, in addition to clarifications on the type of "personnel" for whom training data is to be included in the report. It applies to acquisitions below the SAT and to commercial services (see section III of this preamble). As a result, the clause is added to 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Products and Commercial Services and 52.213-4, Terms and Conditions - Simplified Acquisitions (Other than Commercial Products and Commercial Services).

FAR clause 52.247-63, Preference for U.S. Flag Air Carriers, is amended to revise the definition of "U.S.-flag air carrier" as described in section II.A. of this preamble. In addition, obsolete references to requirements in Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 are replaced with current requirements in 49 U.S.C. 40118, Government-financed air transportation.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-The-Shelf (COTS) Items), or for Commercial Services

This rule proposes a new clause at FAR 52.247-XX, Reporting Requirement for U.S.-Flag Air Carriers Regarding Training to Prevent Human Trafficking, to implement the requirements of section 111 of the Frederick Douglas Trafficking Victims Prevention and Protection Reauthorization Act of 2018 (Pub. L. 115-425). The clause is prescribed at FAR 47.405(b) for use in solicitations and

contracts with a U.S.-flag air carrier for the transportation by air of passengers. This clause is not applicable to solicitations issued or contracts awarded by the Department of Defense. The Federal Acquisition Regulatory Council (FAR Council) plans at the final rule stage to make the following determinations with respect to the rule's application to contracts at or below the simplified acquisition threshold (SAT) and for the acquisition of commercial services, but not commercial products or COTS items. Discussion of these determinations is set forth below.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the FAR Council makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law. The FAR Council intends to make a determination to apply this statute to acquisitions at or below the SAT.

B. Applicability to Contracts for the Acquisition of Commercial Products and Commercial Services, Including Commercially Available Off-The-Shelf (COTS) Items

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial products and commercial services, and is intended to limit the applicability of laws to contracts for the acquisition of commercial products and commercial services. Section 1906 provides that if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt commercial contracts, the provision of law will apply to contracts for the acquisition of commercial products and commercial services.

41 U.S.C. 1907 states that acquisitions of COTS items will be exempt from certain provisions of law unless the Administrator for Federal Procurement Policy makes a written determination and finds that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items.

The FAR Council intends to make a determination to apply this statute to acquisitions for commercial services. Considering that air transportation, such as passenger air travel, is a commercial service, there is no need to apply section 111 to the acquisition of commercial products.

Considering that air transportation does not meet the definition of a COTS item (i.e., it is a service, not a product), section 111 cannot apply to acquisitions of such items regardless of the requirements at 41 U.S.C. 1907. Therefore, the Administrator for Federal Procurement Policy does not intend to

make a determination to apply this statute to acquisitions for COTS items.

C. Determinations

Section 111 of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, 49 U.S.C. 40118(g), requires that domestic carriers who contract with the Federal Government to provide air transportation provide an annual report to the Administrator of General Services, the Secretary of Transportation, the Secretary of Labor, the Administrator of the Transportation Security Administration, and the Commissioner of U.S. Customs and Border Protection, with the following information:

- The number of personnel trained in the detection and reporting of potential human trafficking (as described in 22 U.S.C. 7102 in the paragraphs titled "Severe forms of trafficking in persons" and "Sex trafficking"), including the training required under 49 U.S.C. 44734(a)(4);
- The number of notifications of potential human trafficking victims received from contractor personnel, subcontractors, or passengers; and
- Whether the contractor notified the Global Human Trafficking Hotline, another comparable hotline, or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking, and if the contractor made a notification, the date the notification was made and the

method of notification (e.g., text to Hotline, call to law enforcement).

The purpose of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 is to combat human trafficking. Section 111 of the Act is meant to further that objective. The purpose of this rule is to implement section 111.

The law is silent on the applicability of these requirements to acquisitions at or below the SAT and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1905 and its application to acquisitions at or below the SAT. Therefore, it does not apply to acquisitions at or below the SAT unless the FAR Council makes a written determination as provided at 41 U.S.C. 1905.

Application of the law to contracts at or below the SAT will further the important public policy objective of prohibiting the trafficking of persons. According to the Federal Procurement Data System, approximately seventy percent (70%) of the contracts for air transportation (as identified either by the Product Service Codes of V111 (Air Freight), V121 (Air Charter), V211 (Air Passenger), and V221 (Passenger air charter) or by North American Industry Classification System codes in the 4811XX and 4822XX fields (Scheduled Air Transportation and Nonscheduled Air Transportation industries)) were at or below the SAT during fiscal years 2021 and 2022. Failure to apply section 111 to contracts at or below the SAT would exclude a significant number of

acquisitions, which would undermine the important public policy objective of prohibiting human trafficking.

For this reason, it is in the best interest of the Federal Government to apply the requirements of the rule to contracts at or below the SAT.

The law is silent on the applicability of these requirements to acquisitions of commercial products and commercial services and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1906 and its application to acquisitions of commercial products and commercial services. Therefore, it does not apply to acquisitions of commercial products and commercial services unless the FAR Council makes a written determination as provided at 41 U.S.C. 1906.

Considering that air transportation, such as passenger air travel, is a commercial service, failing to apply section 111 to the acquisition of commercial services would essentially be failing to implement section 111 in its entirety. For this reason, it is in the best interest of the Federal Government to apply the requirements of the rule to contracts for commercial services.

The law is silent on the applicability of this requirement to acquisitions of COTS items and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1907 and its application to acquisitions of COTS items. Therefore, it does not apply to acquisitions of COTS items unless the Administrator for Federal

Procurement Policy makes a written determination as provided at 41 U.S.C. 1907.

However, considering that air transportation does not meet the definition of a COTS item (i.e., it is a service, not a product), section 111 cannot apply to acquisitions of such items regardless of the requirements at 41 U.S.C. 1907. Therefore, no determination needs to be made regarding the application to acquisitions of COTS items.

IV. Expected Impact of the Rule

This proposed rule contains a reporting requirement for domestic carriers who contract with the Federal Government (except for DoD) for air transportation of passengers to provide an annual report to five agencies on the number of personnel trained in the detection of human trafficking, the number of notifications of human trafficking the contractor received, and actions the contractor took with regards to those notifications.

This proposed rule is not creating a training requirement nor does this contract clause create a mandatory reporting requirement to hot lines and law enforcement; the training requirement already existed prior to section 111 (e.g., 49 U.S.C. 44734(a)(4)) and applies to all U.S.-flag air carriers, regardless of whether they are contractors of the Federal Government. This proposed rule simply requires data related to the training that has occurred and notifications that have been made.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612, because this rule will impact domestic air carriers (i.e., U.S.-flag air carriers as described in 49 U.S.C. 41102), including small business domestic air carrier. The estimated number of total small entities to which this rule could apply is 196 though it is likely much lower since it is unknown how many are considered U.S.-flag air carriers in accordance with 49 U.S.C. 41102 and actually impacted by this rule. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 111 of the Frederick Douglass Trafficking Victims Prevention and Protection

Reauthorization Act of 2018 (Pub. L. 115-425). Promulgation of the FAR is authorized by 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113. The legal basis for the proposed rule is section 111 of Public Law 115-425.

Section 111 requires that domestic carriers who contract with the Federal Government to provide transportation by air of passengers must submit an annual report to the Administrator of GSA, the Secretary of Transportation, the Secretary of Labor, the Administrator of the Transportation Security Administration, and the Commissioner of U.S. Customs and Border Protection. The FAR will require the following information in the report:

- The number of personnel trained in the detection and reporting of potential human trafficking (as described in 22 U.S.C. 7102 in the paragraphs titled "Severe forms of trafficking in persons" and "Sex trafficking"), including the training required under 49 U.S.C. 44734(a)(4);

- The number of notifications of potential human trafficking victims received from contractor personnel, subcontractors, or passengers; and

- Whether the contractor notified the Global Human Trafficking Hotline, another comparable hotline, or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking; and if the contractor made a notification, the date the notification was made and the method of notification (e.g., text to Hotline, call to law enforcement).

Section 111 does not apply to contracts awarded by the Department of Defense.

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule will impact domestic air carriers (i.e., U.S.-flag air carriers as described in 49 U.S.C. 41102), including small business U.S. -flag air carriers.

In the Small Business Administration's Dynamic Small Business Search (DSBS) database on April 19, 2023, there were 87 small businesses registered under the North American Industry Classification System (NAICS) codes for "air transportation." It is unknown how many of these 87 small businesses are considered U.S.-flag air carriers in accordance with 49 U.S.C. 41102. According to the Federal Procurement Data System (FPDS), in fiscal year 2022, civilian agencies awarded contracts under NAICS codes in the 4811XX and 4822XX fields (Scheduled Air Transportation and Nonscheduled Air Transportation industries) to 196 unique small businesses. It is unknown how many of these 196 small businesses are considered U.S.-flag air carriers in accordance with 49 U.S.C. 41102. Therefore, the estimated number of total small entities to which this rule could apply is 196 though it is likely much lower since it is unknown how many are considered U.S.-flag air carriers in accordance with 49 U.S.C. 41102 and actually impacted by this rule.

This proposed rule does not include any recordkeeping or other compliance requirements for small businesses. However, the proposed rule does contain a reporting requirement for small businesses. Small business U.S.-flag air carriers who contract with the Federal

Government (except for DoD) for air transportation will be required to provide an annual report to five agencies, on the number of personnel trained in the detection of human trafficking, the number of notifications of human trafficking the contractor received, and actions the contractor took with regards to those notifications.

This proposed rule is not creating a training requirement nor does this contract clause create a mandatory reporting requirement to hot lines and law enforcement; those requirements already existed prior to section 111 (e.g., 49 U.S.C. 44734(a)(4)), and are applied to all U.S.-flag air carriers, regardless of whether they are contractors of the Federal Government. This proposed rule simply requires data related to the training that has occurred and notifications that have been made.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches that would accomplish the stated objectives.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the SBA. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit comments separately and should cite 5 U.S.C. 610 (FAR case 2019-017), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501-3521) applies because the proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat Division has submitted a request for approval of a new information collection requirement concerning FAR case 2019-017, Training to Prevent Human Trafficking for Certain Air Carriers, to the

Office of Management and Budget. The burden associated with this information collection will be added to OMB Control No. 9000-0061, FAR Part 47 Transportation Requirements, when FAR case 2019-017 is finalized.

A. Estimated Public Reporting Burden.

Public reporting burden for this collection of information is estimated to average 5 hours per response, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The annual reporting burden is estimated as follows:

Respondents: 180

Responses per respondent: 1

Total annual responses: 180

Preparation hours per response: 5

Total response burden hours: 900

B. Request for Comments Regarding Paperwork Burden.

Submit comments on this collection of information no later than [**INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER***] through <https://www.regulations.gov> and follow the instructions on the site. All items submitted must cite OMB Control No. 9000-0061. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days

after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or *GSARegSec@gsa.gov*.

Public comments are particularly invited on:

- The necessity of this collection of information for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility;
- The accuracy of the estimate of the burden of this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat Division by calling 202-501-4755 or emailing *GSARegSec@gsa.gov*. Please cite OMB Control Number 9000-0061 in all correspondence.

List of Subjects in 48 CFR Parts 1, 12, 22, 47, and 52

Government procurement.

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,

Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 12, 22, 47, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 12, 22, 47, and 52 continues to read as follows:

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. In section 1.106, amend the table by adding an entry for "52.247-XX" to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

* * * * *

FAR segment	OMB control No.
* * * * *	
52.247-XX	9000-0061
* * * * *	

PART 12—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

3. Amend section 12.503 by revising paragraph (b) (4) to read as follows:

12.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial products and commercial services.

* * * * *

(b) * * *

(4) 49 U.S.C. 40118, Requirement for a clause under a provision of the Government-financed air transportation statute, commonly referred to as the Fly America Act (see 47.405(a)).

* * * * *

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

4. Amend section 22.1703 by revising the introductory text to read as follows:

22.1703 Policy.

The United States Government has adopted a policy prohibiting trafficking in persons, including the trafficking-related activities below. Additional information about trafficking in persons may be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>. See 47.405(b) for contract reporting requirements concerning training to prevent human trafficking for domestic carrier air transportation; 47.405(b) is not applicable to contracts awarded by the Department of Defense. Government solicitations and contracts shall—

* * * * *

PART 47—TRANSPORTATION

5. Amend section 47.101 by revising paragraph (g) to read as follows:

47.101 Policies.

* * * * *

(g) Agencies shall comply with the requirements for Government-financed air transportation (commonly referred to as the Fly America Act), the Cargo Preference Act, and related statutes as prescribed in subparts 47.4, Air Transportation by U.S.-Flag Carriers, and 47.5, Ocean Transportation by U.S.-Flag Vessels.

* * * * *

6. Add section 47.400 to subpart 47.4 to read as follows:

Subpart 47.4—Air Transportation by U.S.-Flag Carriers

47.400 Scope of subpart.

This subpart prescribes policies and procedures for implementing 49 U.S.C. 40118, Government-financed air transportation, commonly referred to as the Fly America Act.

* * * * *

7. Amend section 47.401 by revising the definition of “U.S.-flag air carrier” to read as follows:

47.401 Definitions.

* * * * *

U.S.-flag air carrier means an entity granted authority to provide air transportation in the form of a certificate of public convenience and necessity under 49 U.S.C. 41102.

8. Revise section 47.402 to read as follows:

47.402 Policy.

Federal employees and their dependents, consultants, contractors, grantees, and others must use U.S.-flag air carriers for U.S. Government-financed international air travel

and transportation of their personal effects or property, if available (49 U.S.C. 40118, Government-financed air transportation, commonly referred to as the Fly America Act).

9. Revise section 47.405 to read as follows:

47.405 Contract clauses.

(a) The contracting officer shall insert the clause at 52.247-63, Preference for U.S.-Flag Air Carriers, in solicitations and contracts whenever it is possible that U.S. Government-financed international air transportation of personnel (and their personal effects) or property will occur in the performance of the contract. This clause does not apply to contracts awarded using the simplified acquisition procedures in part 13 or contracts for commercial products (see part 12).

(b) The contracting officer shall insert the clause at 52.247-XX, Reporting Requirement for U.S.-Flag Air Carriers Regarding Training to Prevent Human Trafficking, in solicitations and contracts with a U.S.-flag air carrier for the transportation by air of passengers. This clause is not applicable to solicitations issued or contracts awarded by the Department of Defense.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Amend section 52.212-5 by revising the date of the clause and adding paragraph (c)(10) to read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE
ORDERS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DATE)

* * * * *

(c) * * *

___ (10) 52.247-XX, Reporting Requirement for U.S.-Flag
Air Carriers Regarding Training to Prevent Human Trafficking
(DATE) (49 U.S.C. 40118(g)).

* * * * *

11. Amend section 52.213-4 by revising the date of the
clause; and adding paragraph (b)(1)(xxii) to read as follows:

**52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than
Commercial Products and Commercial Services).**

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL PRODUCTS AND
COMMERCIAL SERVICES) (DATE)

* * * * *

(b) * * *

(1) * * *

(xxii) 52.247-XX, Reporting Requirement for U.S.-Flag
Air Carriers Regarding Training to Prevent Human Trafficking
(DATE) (49 U.S.C. 40118(g)). (Applies to contracts with a U.S.-
flag carrier for the transportation by air of passengers; does
not apply to contracts awarded by the Department of Defense).

* * * * *

12. Amend section 52.247-63 by—

- a. Removing from the introductory text "47.405" and adding "47.405(a)" in its place;
- b. Revising the date of the clause;
- c. In paragraph (a), revising the definition of "U.S.-flag air carrier"; and
- d. Revising paragraphs (b) and (e).

The revisions read as follows:

52.247-63 Preference for U.S.-Flag Air Carriers.

* * * * *

PREFERENCE FOR U.S.-FLAG AIR CARRIERS (DATE)

(a) * * *

U.S.-flag air carrier means an entity granted authority to provide air transportation in the form of a certificate of public convenience and necessity under 49 U.S.C. 41102.

(b) 49 U.S.C. 40118, Government-financed air transportation (commonly referred to as the Fly America Act), requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the General Services Administration to issue regulations that, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-

flag air carrier if a U.S.-flag air carrier is available to provide such services.

* * * * *

(e) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

* * * * *

13. Add section 52.247-XX to read as follows:

**52.247-XX Reporting Requirement for U.S.-Flag Air Carriers
Regarding Training to Prevent Human Trafficking.**

As prescribed in 47.405(b), insert the following clause:

REPORTING REQUIREMENT FOR U.S.-FLAG AIR CARRIERS REGARDING TRAINING TO PREVENT
HUMAN TRAFFICKING (DATE)

(a) *Definitions.* As used in this clause—

Potential human trafficking has the meaning as described in paragraphs “Severe forms of trafficking in persons” and “Sex trafficking” at 22 U.S.C. 7102.

(b) *Annual reporting requirement.*

(1) In accordance with 49 U.S.C. 40118(g), the Contractor shall provide an annual report, by October 30th, via email, to the following agencies:

(i) General Services Administration: __;

(ii) U.S. Department of Transportation:
trafficking@dot.gov;

(iii) Department of Labor: __;

(iv) Transportation Security Administration: *ics-cchtfams@tsa.dhs.gov*;

(v) U.S. Customs and Border Protection:
CLP@cbp.dhs.gov; and

(vi) DHS Center for Countering Human Trafficking:
Info@CCHT.dhs.gov.

(2) The report shall contain—

(i) The number of people trained in the detection and reporting of potential human trafficking, including the training required under 49 U.S.C. 44734(a)(4);

(ii) The number of notifications of potential human trafficking victims received from Contractor personnel, subcontractors, or passengers; and

(iii) (A) Whether the Contractor notified the Global Human Trafficking Hotline, another comparable hotline, or law enforcement at the relevant airport of the potential human trafficking victim for each such notification of potential human trafficking; and

(B) If the Contractor made a notification, the date the notification was made and the method of notification (e.g., text to Hotline, call to law enforcement).

(c) *Training.* In accordance with 49 U.S.C. 44734 and 44738, personnel trained in the detection and reporting of potential human trafficking should include the following:

(1) Flight attendants;

(2) Ticket counter agents;

(3) Gate agents; and

(4) Other air carrier workers whose jobs require regular interaction with passengers.

(End of clause)

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